IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1865 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE A.M.KAPADIA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHAH BROTHERS

Versus

UNION OF INDIA

Appearance:

MR PARESH M DAVE for Petitioner

MR MUKESH R SHAH for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE A.M.KAPADIA

Date of decision: 21/03/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

1. Rule. Mr. M.R. Shah, learned counsel appears and waives service of rule on behalf of the respondents.

2. In the facts and circumstances of the case and upon request, the matter is taken up for final hearing.

3. As such, this petition is filed against non-action in hearing and deciding the stay application filed by the petitioner. In the meanwhile, as the grievance is voiced on behalf of the petitioner, the respondent authority has started proceeding for coercive recovery of the dues against the petitioner in respect of which the grievance is made by the petitioner and the appeal as well as application for stay are pending.

4. Mr. Dave, learned advocate for the petitioner, has relied on various decisions of this Court, the copies, whereof, are shown to us, and also on the decisions of the Honourable Supreme Court, copies, whereof, are, also, shown to us and has contended that, until the stay application is heard and decided, the respondent authority should be restrained from taking any coercive measures.

5. After having heard the learned counsel for the respondent authority and considering the facts and the earlier decisions of this Court as well as the Honourable Apex Court, we propose to pass following order:

O R D E R

Until the application for stay submitted by the petitioner is heard and decided, the respodnent authority shall not take further coercive step to recover the amount due and payable by the petitioner under the impugned order. Respondent No.2 - the Customs, Excise & Gold (Control) Appellate Tribunal - the appellate authority, is directed to decide and dispose of the stay application, as expeditiously as possible, and, preferably, within a period of four weeks from today. This petition stands, accordingly, allowed. Rule is made absolute to that extent. No order as to costs.

(J.N. Bhatt, J.)

21.3.2001. (A.M. Kapadia, J.)

(karan)